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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,216	10/12/2000	Stephen Yencho	032405-018	9923

33109 7590 12/02/2002

CARDICA, INC.
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EXAMINER

IZAGUIRRE, ISMAEL

ART UNIT PAPER NUMBER

3765

DATE MAILED: 12/02/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/887,216	YENCHO ET AL.	
	Examiner	Art Unit	
	Ismael Izaguirre	3765	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>12</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

IDS Remarks

The IDS submitted previously has been located along with copies of all the documents cited on the PTO- 1449.

CLAIMS

Summary

Claims 1, 8 and 14 are the independent claims under consideration in this Office Action.

Claims 2-7,9-13 and 15-19 are the dependent claims under consideration in this Office Action.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371[®] of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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Claims 1-4 and 6-19 are rejected under 35 U.S.C. § 102(e) as being anticipated by Peterson et al. (6,152,937).

Peterson et al. teach a one piece anastomosis device for connecting a graft vessel to a target vessel comprising a device body formed of Nitinol and being superelastic with inside and outside flanges 18 and 20, respectively. The flanges hold the tissue from the target vessel and the graft vessel where the graft vessel end is everted (figure 21(b) for example). The body further includes penetrating elements 16 for holding the graft vessel onto the body.

Peterson et al. teach the anastomosis device being fed through a tube in a reduced or constrained manner and as the tube is removed the inner and outer flange bounce into place and the body increases in diameter for providing the necessary seal.

Claims 1, 3-5, 7, 8, 10, 11, 13-17 and 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by Berg et al. (6,074,416).

Berg et al. teach a one piece anastomosis device for connecting a graft vessel to a target vessel comprising a device body formed of Nitinol and being superelastic with inside and outside flanges 34 and 40, respectively. The flanges hold the tissue from the target vessel by including piercing structure (figure 6(b) for example).

Berg et al. teach the anastomosis device being fed through a tube in a reduced or constrained manner and as the tube is removed the inner and outer flange bounce into place and connect the graft vessel to the target vessel.

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INQUIRIES

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-0861.

Any inquiry concerning this communication or earlier communications directed to the examiner should be directed to Mr. Ismael Izaguirre at (703) 308-0892 located in CP2-4B18, Monday through Friday 9:30am to 6:00pm.



Ismael Izaguirre
Primary Examiner
Group Art Unit 3765

II
November 27, 2002